

109TH CONGRESS
1ST SESSION

S. 191

To extend certain trade preferences to certain least-developed countries, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2005

Mr. SMITH (for himself, Mrs. FEINSTEIN, Mr. BAUCUS, and Mr. SANTORUM)
introduced the following bill; which was read twice and referred to the
Committee on Finance

A BILL

To extend certain trade preferences to certain least-developed
countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tariff Relief Assist-
5 ance for Developing Economies Act of 2005” or as the
6 “TRADE Act of 2005”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) It is in the mutual interest of the United
10 States and the least-developed countries to promote

1 stable and sustainable economic growth and develop-
2 ment.

3 (2) Trade and investment are powerful eco-
4 nomic tools and a country may use trade and invest-
5 ment to reduce poverty and raise the standard of liv-
6 ing in that country.

7 (3) A country that is open to trade may in-
8 crease its economic growth.

9 (4) Twenty-five percent of the world's popu-
10 lation survives on less than one dollar per day.

11 (5) Unemployment rates in least-developed
12 countries are extremely high, including unemploy-
13 ment rates in some countries of up to 70 percent.

14 (6) Trade and investment often lead to employ-
15 ment opportunities and often help alleviate poverty.

16 (7) Least-developed countries have a particular
17 challenge in meeting the economic requirements and
18 competitiveness of globalization and international
19 markets.

20 (8) The United States has recognized the bene-
21 fits of trade to least-developed countries by enacting
22 the Generalized System of Preferences and trade
23 benefits for developing countries in the Caribbean,
24 Andean, and sub-Saharan African regions of the
25 world.

1 (9) The challenges of the global trading envi-
2 ronment for least-developed countries are even great-
3 er given the end of the Multi-Fiber Arrangement in
4 2005, and certain least-developed countries, includ-
5 ing Bangladesh, Cambodia, and Nepal, are particu-
6 larly vulnerable to the changes that will result from
7 the end of that Arrangement.

8 (10) Responding to the needs of least-developed
9 countries would be consistent with other United
10 States trade objectives, including encouraging for-
11 ward progress on the WTO Doha Development
12 Round.

13 (11) Enhanced trade with the Muslim least-de-
14 veloped countries, including Yemen, Afghanistan,
15 and Bangladesh, is consistent with other United
16 States objectives of encouraging a strong private
17 sector and individual economic empowerment in
18 those countries.

19 (12) Offering least-developed countries en-
20 hanced trade preferences will encourage both higher
21 levels of trade and direct investment in support of
22 positive economic and political developments
23 throughout the region and the world.

24 (13) Encouraging the reciprocal reduction of
25 trade and investment barriers will enhance the bene-

1 fits of trade and investment as well as enhance com-
2 mercial and political ties between the United States
3 and the beneficiary countries.

4 (14) Economic opportunity and engagement in
5 the global trading system together with support for
6 democratic institutions and a respect for human
7 rights are mutually-reinforcing objectives and key
8 elements of a policy to confront and defeat global
9 terrorism.

10 (15) A powerful earthquake and tsunami struck
11 in the Indian Ocean on December 26, 2004.

12 (16) The destruction caused by the tsunami in
13 Sri Lanka was devastating and included the loss of
14 an estimated 30,000 people and physical damage
15 that will cost an amount equal to 6.5 percent of an-
16 nual economy of Sri Lanka to repair.

17 (17) The effects of lost businesses and recon-
18 struction costs caused by the tsunami damage will
19 result in a drop in the economic growth of Sri
20 Lanka.

21 (18) Senate Resolution 4, 109th Congress,
22 agreed to January 4, 2005, expressed the support of
23 the Senate for the long-term commitment and en-
24 gagement of the United States to provide financial
25 aid and other forms of direct and indirect assistance

1 to the countries and peoples of the region impacted
 2 by the earthquake and the tsunami.

3 (19) Duty preferences that assist Sri Lanka in
 4 the United States market will help Sri Lanka re-
 5 build and overcome the economic destruction caused
 6 by the tsunami.

7 **SEC. 3. AUTHORITY TO DESIGNATE; ELIGIBILITY REQUIRE-**
 8 **MENTS.**

9 (a) AUTHORITY TO DESIGNATE.—

10 (1) In general.—Notwithstanding any other
 11 provision of law, the President is authorized to des-
 12 ignate a TRADE ACT of 2005 country as a bene-
 13 ficiary TRADE Act of 2005 country eligible for ben-
 14 efits described in section 4—

15 (A) if the President determines that the
 16 country meets the requirements set forth in sec-
 17 tion 104 of the African Growth and Oppor-
 18 tunity Act (19 U.S.C. 3703); and

19 (B) subject to the authority granted to the
 20 President under subsections (a), (d), and (e) of
 21 section 502 of the Trade Act of 1974 (19 U.S.
 22 C. 2462 (a), (d), and (e)), if the country other-
 23 wise meets the eligibility criteria set forth in
 24 such section 502.

1 (2) APPLICATION OF SECTION 104.—Section
 2 104 of the African Growth and Opportunity Act
 3 shall be applied for purposes of paragraph (1) by
 4 substituting “TRADE Act of 2005 country” for
 5 “sub-Saharan African country” each place it ap-
 6 pears.

7 (b) COUNTRIES ELIGIBLE FOR DESIGNATION.—For
 8 purposes of this Act, the term “TRADE Act of 2005 coun-
 9 try” refers to the following or their successor political enti-
 10 ties:

- 11 (1) Afghanistan.
- 12 (2) Bangladesh.
- 13 (3) Bhutan.
- 14 (4) Cambodia.
- 15 (5) Kiribati.
- 16 (6) Lao People’s Democratic Republic.
- 17 (7) Maldives.
- 18 (8) Nepal.
- 19 (9) Samoa.
- 20 (10) Solomon Islands.
- 21 (11) Timor-Leste (East Timor).
- 22 (12) Tuvalu.
- 23 (13) Vanuatu.
- 24 (14) Yemen.

1 (c) SRI LANKA ECONOMIC EMERGENCY SUPPORT.—
 2 For purposes of this Act, the President may also designate
 3 Sri Lanka as beneficiary TRADE Act of 2005 country eli-
 4 gible for benefits described in section 4.

5 **SEC. 4. TRADE ENHANCEMENT.**

6 (a) BENEFITS DESCRIBED.—The benefits described
 7 in this section are as follows:

8 (1) PREFERENTIAL TARIFF TREATMENT FOR
 9 CERTAIN ARTICLES.—

10 (A) IN GENERAL.—The President may
 11 provide duty-free treatment for any article de-
 12 scribed in section 503(b)(1) (B) through (G) of
 13 the Trade Act of 1974 (19 U.S.C.2463(b)(1)
 14 (B) through (G)) that is the growth, product,
 15 or manufacture of a beneficiary TRADE Act of
 16 2005 country described, if, after receiving the
 17 advice of the International Trade Commission
 18 in accordance with section 503(e) of the Trade
 19 Act of 1974, the President determines that
 20 such article is not import-sensitive in the con-
 21 text of imports from beneficiary TRADE Act of
 22 2005 countries.

23 (B) RULES OF ORIGIN.—The duty-free
 24 treatment provided under subparagraph (A)
 25 shall apply to any article described in that para-

graph that meets the requirements of section 503(a)(2) of the Trade Act of 1974, except that—

(i) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2) of the Trade Act of 1974; and

(ii) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary TRADE Act of 2005 countries or former beneficiary TRADE Act of 2005 countries shall be applied in determining such percentage.

(2) TEXTILE AND APPAREL ARTICLES.—

(A) IN GENERAL.—The preferential treatment relating to textile and apparel articles described in section 112 (a) and (b) (1) and (2)

of the African Growth and Opportunity Act (19 U.S.C. 3721 (a) and (b) (1) and (2)) shall apply to textile and apparel articles imported directly into the customs territory of the United States from a beneficiary TRADE Act of 2005 country and such section shall be applied for purposes of this subparagraph by substituting “TRADE Act of 2005 country” and “TRADE Act of 2005 countries” for “sub-Saharan African country” and “sub-Saharan African countries”, respectively, each place such terms appear.

(B) APPAREL ARTICLES ASSEMBLED FROM REGIONAL AND OTHER FABRIC.—In applying such section 112, apparel articles wholly assembled in one or more beneficiary TRADE Act of 2005 countries or former beneficiary TRADE Act of 2005 countries, or both, from fabric wholly formed in one or more beneficiary TRADE Act of 2005 countries or former beneficiary TRADE Act of 2005 countries, or both, from yarn originating either in the United States or one or more beneficiary TRADE Act of 2005 countries or former beneficiary TRADE Act of 2005 countries, or both (includ-

ing fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States, one or more beneficiary TRADE Act of 2005 countries or former beneficiary TRADE Act of 2005 countries, or any combination thereof), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in section 112(b) (1) or (2) of the African Growth and Opportunity Act (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in such section 112(b) (1) or (2) subject to the following:

(i) LIMITATIONS ON BENEFITS.—

(I) IN GENERAL.—Preferential treatment under this subparagraph shall be extended in the 1-year period beginning January 1, 2005, and in each of the succeeding 10 1-year periods, to imports of apparel articles described in this subparagraph in an

1 amount not to exceed the applicable
2 percentage of the aggregate square
3 meter equivalents of all apparel arti-
4 cles imported into the United States in
5 the preceding 12-month period for
6 which data are available.

7 (II) APPLICABLE PERCENT-
8 AGE.—For purposes of this clause, the
9 term “applicable percentage” means
10 11 percent for the 1-year period be-
11 ginning January 1, 2005, increased in
12 each of the 10 succeeding 1-year pe-
13 riod by equal increments, so that for
14 the period beginning January 1, 2014,
15 the applicable percentage does not ex-
16 ceed 14 percent.

17 (ii) SPECIAL RULE.—

18 (I) IN GENERAL.—Subject to
19 clause (i), preferential treatment de-
20 scribed in this subparagraph shall be
21 extended through December 31, 2011,
22 for apparel articles wholly assembled
23 in one or more beneficiary TRADE
24 Act of 2005 countries or former bene-
25 ficiary TRADE Act of 2005 countries,

1 or both, regardless of the country of
2 origin of the yarn or fabric used to
3 make such articles.

4 (II) COUNTRY LIMITATIONS.—

5 (aa) SMALL SUPPLIERS.—If
6 during the preceding 1-year pe-
7 riod beginning on January 1 for
8 which data are available, imports
9 from a beneficiary TRADE Act
10 of 2005 country are less than 1
11 percent of the aggregate square
12 meter equivalents of all apparel
13 articles imported into the United
14 States during such period, such
15 imports may increase to an
16 amount that is equal to not more
17 than 1.5 percent of the aggregate
18 square meter equivalents of all
19 apparel articles imported into the
20 United States during such pe-
21 riod.

22 (bb) OTHER SUPPLIERS.—If
23 during the preceding 1-year pe-
24 riod beginning on January 1 for
25 which data are available, imports

from a beneficiary TRADE Act of 2005 country are at least 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period, such imports may increase, during each subsequent 12-month period, by an amount that is equal to not more than one-third of 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States.

(cc) AGGREGATE COUNTRY LIMIT.—In no case may the aggregate quantity of textile and apparel articles imported into the United States under this subparagraph exceed the applicable percentage set forth in clause (i).

(C) OTHER RESTRICTIONS.—The provisions of section 112(b) (3)(C), (4), (5), (6), and (7), and (d), and section 113 of the African Growth and Opportunity Act (19 U.S.3721(b)

(3)(C), (4), (5), (6), and (7), and (d), and 3722) shall apply with respect to the preferential treatment extended under this Act to a beneficiary TRADE Act of 2005 country by substituting “TRADE Act of 2005 country” for “sub-Saharan African country” and “TRADE Act of 2005 countries” and “former TRADE Act of 2005 countries” for “sub-Saharan African countries” wherever appropriate.

SEC. 5. REPORTING REQUIREMENT.

The President shall monitor, review, and report to Congress, not later than 1 year after the date of enactment of this Act, and annually thereafter, on the implementation of this Act and on the trade and investment policy of the United States with respect to the TRADE Act of 2005 countries.

SEC. 6. DEFINITIONS.

In this Act:

(1) **BENEFICIARY TRADE ACT OF 2005 COUNTRY.**—The term “beneficiary TRADE Act of 2005 country” means a country listed in subsection (b) or (c) of section 3 that the President has determined is eligible for preferential treatment under this Act.

(2) **FORMER TRADE ACT OF 2005 COUNTRY.**—The term “former TRADE Act of 2005 country”

1 means a country that, after being designated as a
2 beneficiary TRADE Act of 2005 country under this
3 Act, ceased to be designated as such a country by
4 reason of its entering into a free trade agreement
5 with the United States.

6 **SEC. 7. TERMINATION OF PREFERENTIAL TREATMENT.**

7 No duty-free treatment or other preferential treat-
8 ment extended to a beneficiary TRADE Act of 2005 coun-
9 try under this Act shall remain in effect after December
10 31, 2014.

11 **SEC. 8. EFFECTIVE DATE.**

12 The provisions of this Act shall take effect on Janu-
13 ary 1, 2005.

○